



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Continue Public Hearing to Consider Appeal Received from Mullen, Sullivan & Newton on Behalf of Richard Galantine Regarding Mitigation Fees and for the Applicability of the Dedication and Off-Site Improvement Sections of the Lodi Municipal Code

MEETING DATE: April 3, 1996

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Continue the public hearing and take appropriate action regarding payment of mitigation fees and the applicability of the required dedications for public right of way and installation of street improvements for property located at 901 South Cherokee Lane.

BACKGROUND INFORMATION: Council continued the public hearing held March 20, 1996 on this matter to allow staff time to further research the applicability of the dedication and off-site improvement requirements and meet with the appellant and his counsel to try to reach a solution. The requirements were triggered by work done at the site in 1994 and 1995. A sketch of the site showing the improvements is attached as Exhibit A.

The issues to be resolved and staff recommendations are listed below.

- 1. Cherokee Lane and Vine Street improvements and right-of-way dedications.** Based on the staff estimate of \$30,000 for the grading, paving, storm drain system and fence installation at the site in 1995 and other work valued at \$11,000 by the Building Division done in 1994, right-of-way dedications and installation of street improvements on Cherokee Lane and Vine Street were required. The staff estimate was based on typical contractor's prices for the work performed. The margin of error in the staff estimate is probably on the order of 10± percent.

The building permits for the work done in 1994 (Nos. 25875 through 25878) were issued March 21, 1994. The final inspection on Permit No. 25875 was performed on June 7, 1994. The other three permits were finalized on November 22, 1994.

The Municipal Code requires that dedications and off-site improvements be made if the cost of improvements to a property, as determined by the Public Works Director, exceeds a given amount within a 12-month period. The Code does not specify the dates to be used to determine the starting date of the 12-month period. This results in some ambiguity with regard to enforcement of this section of the Code. Staff recommends that the permit issuance date be established as the start of the 12-month period to be considered with respect to right-of-way dedication and off-site improvement requirements. This seems reasonable since Public Works Department conditions and fee payments are made at the time of permit issuance. This would remove the value of the permitted work done in 1994 from the equation for dedication and off-site improvement requirements.

APPROVED:

H. Dixon Flynn -- City Manager

Since there is some margin of error possible in the Public Works Department estimate for the work performed at the site in 1995, staff feels the valuation of this work is too close to call and recommends the requirements for right-of-way dedication and off-site improvements on Cherokee Lane and Vine Street be eliminated.

2. **Safety hazard created by unpermitted paving in Cherokee Lane.** The unpermitted paving work in Cherokee Lane done by Mr. Galantine's contractor was stopped by a Public Works inspector in May 1995. A letter dated May 12, 1995 was sent to Mr. Galantine regarding the need for an encroachment permit for this work and requesting that several unacceptable situations created by the unpermitted paving be addressed. Those concerns included the public safety hazard created by failing to provide protection for pedestrians from vehicles and protection for vehicles from the utility pole and speed limit sign which was now in the paved portion of the roadway.

Staff recommends that Mr. Galantine provide plans prepared by a licensed civil engineer to remediate the safety hazard. At a minimum, the plans should include the installation of a berm along the Cherokee Lane frontage, drainage design to direct drainage to the public storm drain system and the location of previous and new driveways. The plans need to be submitted to the Public Works Department for review and approval. The work shall be done by a licensed contractor under the terms of an encroachment permit issued by the Public Works Department after the plans have been approved.

3. **Approval of new driveway locations along Cherokee Lane.** Cherokee Lane south of Vine Street is a restricted-access street. All new driveway locations require Council approval. A new driveway has been established at the south end of the Cherokee Lane frontage. Staff recommends the appellant submit plans to the Public Works Department showing the new driveway location and request Council approval of the location. The plans provided under Item #2 could be used for this purpose.
4. **Development Impact Mitigation Fees.** Development Impact Mitigation Fees are required due to a change in land use. A retail-commercial operation has been established on a previously undeveloped portion of the site. In addition, information available to staff indicates that a 2-bedroom house on the site has been converted into an office for the commercial operation. A site plan provided by the appellant showing the current office as a "dwelling" is attached as Exhibit B. It was, therefore, assumed that this unit and the other four structures labeled as duplexes on the plan were residential rental units. The impact fees have been adjusted downward to reflect the information provided by the appellant on the Water/Wastewater Questionnaire and to exclude the existing developed portion of the parcel. The Development Impact Mitigation Fee Summary Sheet showing the amount of the fees is attached as Exhibit C.

Staff recommends that the payment of Development Impact Mitigation Fees be required. The establishment of a retail commercial operation on previously bare ground has created additional demands on City systems.

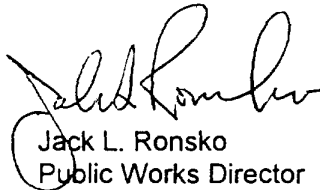
5. **Water service upgrade and meter fees.** A water service upgrade and water meter installation is required on the existing 2-inch water service in conformance with Lodi Municipal Code (LMC), Chapter 13.08, Section 13.08.050. The costs of the service upgrade and 2-inch meter installation are \$933.33 and \$500.00, respectively. If a 1½-inch meter will suffice, the meter installation charge will be \$360.00.

Continue Public Hearing to Consider Appeal Received from Mullen, Sullivan & Newton on Behalf of Richard Galantine Regarding Mitigation Fees and for the Applicability of the Dedication and Off-Site Improvement Sections of the Lodi Municipal Code
April 3, 1996
Page 3

Staff recommends that the water service upgrade and water meter installation fees be required in conformance with Paragraphs A.4. and A.5. of the above-referenced LMC Section.

The City Manager has a meeting scheduled with Mr. Stephen Snider, Mr. Galantine's attorney, on Friday, March 30, to discuss the recommendations listed above and, hopefully, reach a mutually satisfactory solution to this matter. The outcome of that meeting will be reported to Council at the April 3 Council meeting.

FUNDING: Not applicable.



Jack L. Ronsko
Public Works Director

Prepared by Sharon A. Welch, Associate Civil Engineer

JLR/SAW/lm

Attachments

cc: City Attorney
Deputy City Attorney
City Engineer
Associate Civil Engineer - Development Services
Mullen, Sullivan & Newton

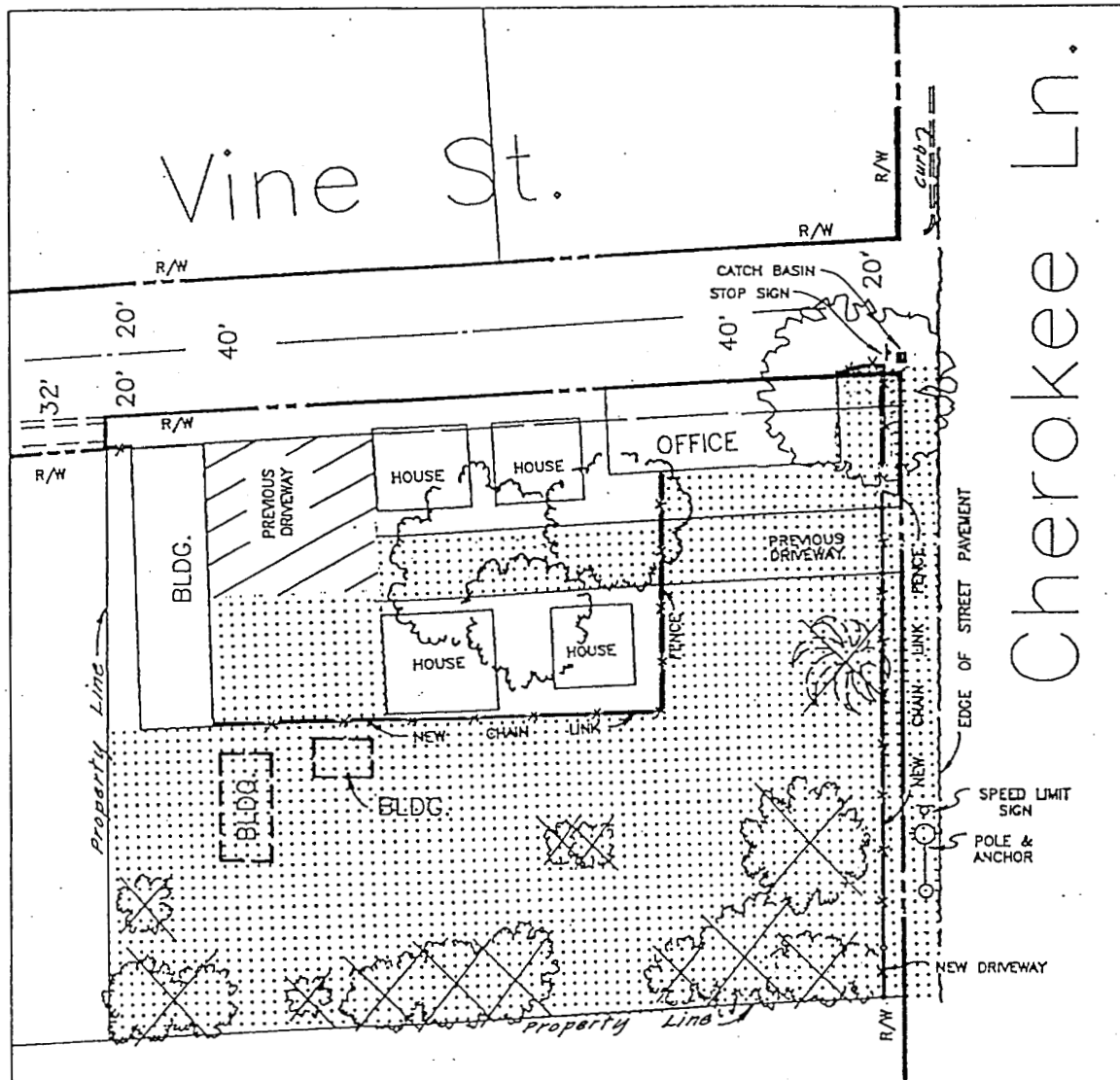


CITY OF LODI

PUBLIC WORKS DEPARTMENT





EXHIBIT A

901 South Cherokee Lane



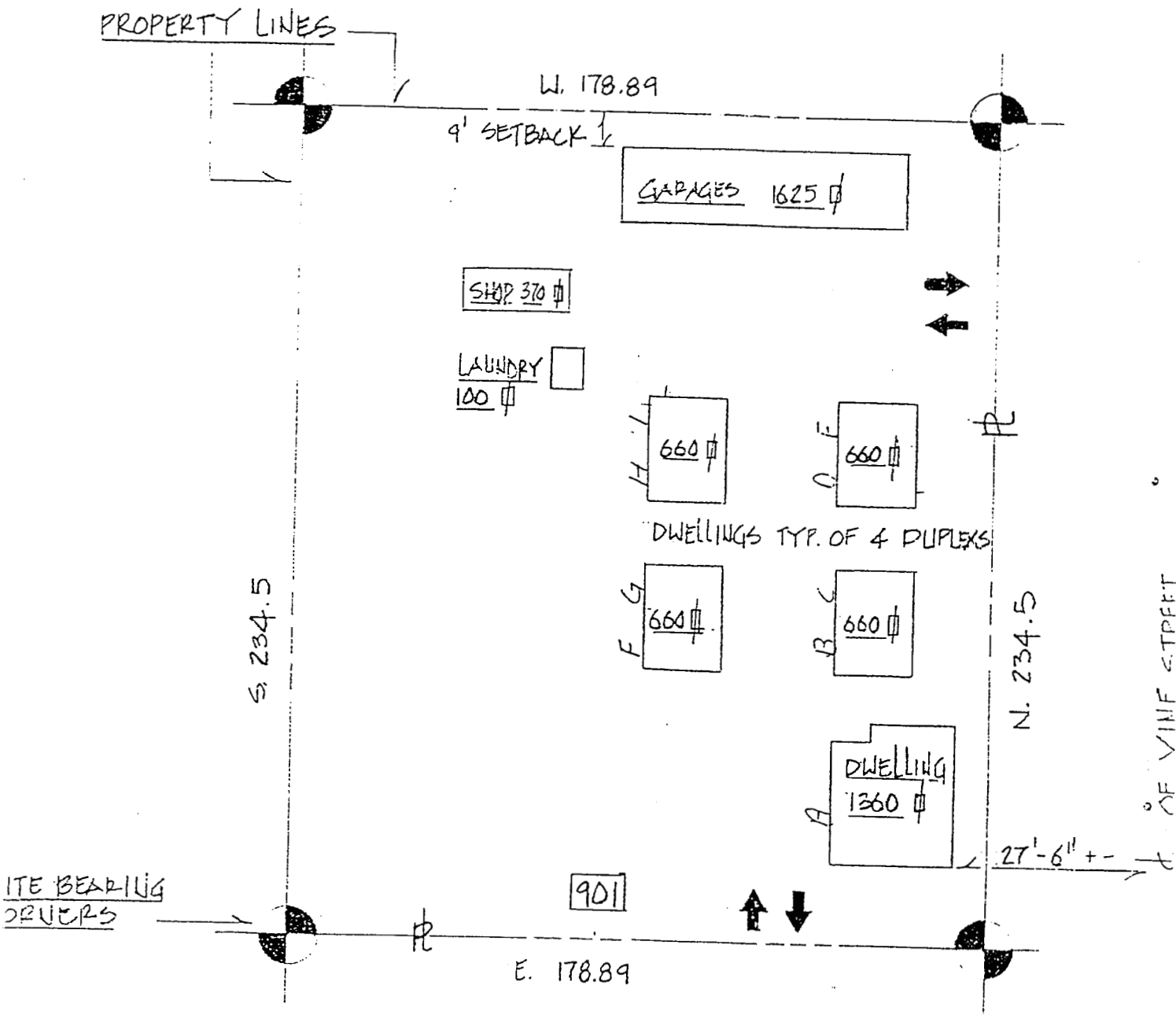
Location of structures taken from 1992 aerial photograph.

LEGEND:

-  New Asphalt Pavement
-  Previous Pavement
-  Building Removed
-  Tree Removed

N.T.S.

Exhibit B



ITE BEARING
DRIVERS

CL OF CHEROKEE LANE

SITE PLAN LAYOUT

SCALE: 1" = 2'

Exhibit C



CITY OF LODI PUBLIC WORKS DEPARTMENT

Development Impact Mitigation Fee Summary Sheet

Subdivision: n/a n/a n/a
Name Tract # File #
Parcel: 901 S. Cherokee Lane, Lodi, CA 95240 n/a
Address Const. Appl. #
047-390-002
AP #

Developer/Owner: Richard Galantine (Riverbend Motors)
Name
2417 Summerset Court, Lodi, CA 95240
Address

Project Description: Used car lot on undeveloped southerly portion of parcel

GP Land Use Category: C-2

| Parcel | | Project (if different) | | | | | |
|-------------------------------------|-----------|------------------------|------|------|--------------|--------|-------------|
| Fee Category | Account # | P | RAE | Adj. | F | A | T |
| 1) Water Facilities | 18.2-661 | \$ 5,690.00 | 0.12 | x(1) | \$ 680.00 | 0.47 * | \$ 319.60 |
| 2) Sewer Facilities - General | 17.3-661 | \$ 1,060.00 | 0.27 | x(1) | \$ 290.00 | 0.47 * | \$ 136.30 |
| - Lift Station | | | | | | | |
| 3) Storm Drainage Facilities | 32.6-661 | \$ 7,630.00 | 1.33 | | \$ 10,150.00 | 0.47 * | \$ 4,770.50 |
| 4) Street Improvements - Local | 32.7-661 | \$ 5,440.00 | 0.39 | x(2) | \$ 2,120.00 | 0.47 * | \$ 577.91 |
| Street Improvements - Regional | 33.2-661 | | | | | | \$ 418.49 |
| 5) Police Protection Facilities | 121.5-661 | \$ 1,130.00 | 4.12 | | \$ 4,660.00 | 0.47 * | \$ 2,190.20 |
| 6) Fire Protection Facilities | 121.6-661 | \$ 540.00 | 2.69 | | \$ 1,450.00 | 0.47 * | \$ 681.50 |
| 7) Parks & Recreation Facilities | 121.7-661 | \$ 11,830.00 | 0.02 | x(3) | \$ 240.00 | 0.47 * | \$ 112.80 |
| 8) General City Fac. & Prog. Admin. | 121.8-661 | \$ 6,830.00 | 0.07 | x(3) | \$ 480.00 | 0.47 * | \$ 225.60 |

P = Program Fee per Residential Acre Equivalent (RAE) per Resolution 91-172.

RAE = Residential Acre Equivalent per LMC \$15.64.070, unless adjusted.

Adj. = Checked if RAE is adjusted, see Notes below.

F = Fee per acre (rounded to nearest \$10.00) = P x RAE.

A = Gross acreage per LMC \$15.64.020A & 15.64.060 (rounded to nearest 0.01 acre).

T = Total Fee for service category = A x F.

Total 1-8: \$9,432.90
due prior to project approval

- The acreage for all categories has been adjusted to allow credit for the existing residential development and previously existing shop and laundry buildings which have been demolished.

Notes:

- The water and sewer fees are based on the sewer service units (SSU) or sewer capacity fee assigned to the project. Based on the employee information provided on the Water/Wastewater Questionnaire, the RAE factors were adjusted to reflect the minimum capacity fee of 1 SSU.
- The RAE factor was adjusted based on information obtained from the ITE "Trip Generation" manual for similar land uses.
- The RAE factors were adjusted based on information contained in the Water/Wastewater Questionnaire. The fees are based on one (1) full-time employee (the owner).

By: _____ Approved: _____ Record #: _____

Date Billed: _____

Date Paid: _____ (Fee category 1 thru 8)

CITY COUNCIL

DAVID P. WARNER, Mayor
PHILLIP A. PENNINO
Mayor Pro Tempore
RAY G. DAVENPORT
STEPHEN J. MANN
JACK A. SIEGLOCK

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
P.O. BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 333-6706
FAX (209) 333-6842

H. DIXON FLYNN
City Manager
JENNIFER M. PERRIN
City Clerk
RANDALL A. HAYS
City Attorney

March 27, 1996

Mullen, Sullivan & Newton
1111 W. Tokay Street
Lodi, CA 95242

SUBJECT: Continue Public Hearing to Consider Appeal Received from
Mullen, Sullivan & Newton on Behalf of Richard Galantine Regarding
Mitigation Fees and for the Applicability of the Dedication and Off-Site
Improvement Sections of the Lodi Municipal Code

Enclosed is a copy of background information on an item on the City Council
agenda of Wednesday, April 3, 1996, at 7 p.m. The meeting will be held in the City
Council Chamber, Carnegie Forum, 305 West Pine Street.

The Council will continue conducting the public hearing on this item. You are welcome
to attend and speak at the appropriate time.

If you wish to write to the City Council, please address your letter to City Council,
City of Lodi, P. O. Box 3006, Lodi, California, 95241-1910. Be sure to allow time for
the mail. Or, you may hand-deliver the letter to the City Clerk at 305 West Pine Street.

If you wish to address the Council at the Council meeting, be sure to fill out a speaker's
card (available at the Carnegie Forum immediately prior to the start of the meeting) and
give it to the City Clerk. If you have any questions about communicating with the
Council, please contact Jennifer Perrin, City Clerk, at (209) 333-6702.

If you have any questions about the item itself, please call Sharon Welch at
(209) 333-6706.



Jack L. Ronsko
Public Works Director

JLR/lm

Enclosure

cc: City Clerk



CITY OF LODI

Carnegie Forum
305 West Pine Street, Lodi

NOTICE OF PUBLIC HEARING

Date: April 3, 1996

Time: 7:00 p.m.

For information regarding this notice please contact:

Jennifer M. Perrin

City Clerk

Telephone: (209) 333-6702

NOTICE OF CONTINUED PUBLIC HEARING

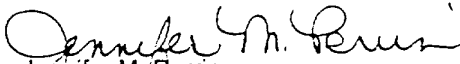
NOTICE IS HEREBY GIVEN that on **Wednesday, April 3, 1996** at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a Continued Public Hearing at the Carnegie Forum, 305 West Pine Street, Lodi, to consider the following matter:

- a) Appeal received from Mullen, Sullivan & Newton on behalf of Richard Gallantine regarding mitigation fees for the applicability of the dedication and off-site improvement sections of the Lodi Municipal Code

All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

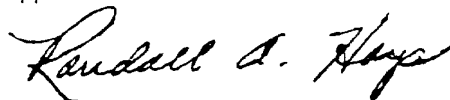
If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice or in written correspondence delivered to the City Clerk, P.O. Box 3006, at or prior to the Public Hearing.

By Order of the Lodi City Council:


Jennifer M. Perrin
City Clerk

Dated: **March 20, 1996**

Approved as to form:



Randall A. Hays
City Attorney



DECLARATION OF MAILING

Continued Public Hearing - Gallantine Appeal

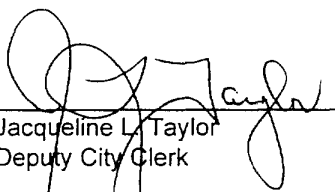
On March 21, 1996 in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, containing a copy of the Notice attached hereto, marked Exhibit "A"; said envelopes were addressed as is more particularly shown on Exhibit "B" attached hereto.

There is a regular daily communication by mail between the City of Lodi, California, and the places to which said envelopes were addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 21, 1996, at Lodi, California.

Jennifer M. Perrin
City Clerk


Jacqueline L. Taylor
Deputy City Clerk

MAILING LIST

John M. Luebberke
Deputy City Attorney

Sharon Welch
Public Works Department

Mullen, Sullivan & Newton
P.O. Box 560
Lodi, CA 95241-0560

SUMMARY OF ISSUES
AND
STAFF RECOMMENDATIONS
901 S. CHEROKEE LANE

1. ***Cherokee Lane and Vine Street improvements and right-of-way dedications.***

Eliminate requirements for right-of-way dedication and off-site improvements on Cherokee Lane and Vine Street.

2. ***Safety hazard created by unpermitted paving in Cherokee Lane.***

Owner to provide plans prepared by licensed civil engineer to remediate safety hazard. Licensed contractor to do work under terms of encroachment permit issued by Public works Department.

3. ***Approval of new driveway locations along Cherokee Lane.***

Owner to submit plans to Public Works Department showing new driveway location and request Council approval of location.

4. ***Development Impact Mitigation Fees.***

Owner to pay Development Impact Mitigation Fees for establishment of retail commercial operation on previously bare ground.

5. ***Water service upgrade and meter fees.***

Owner to pay water service upgrade and water meter installation fees in conformance with LMC §13.08.050.